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FCC Takes Further Steps To Implement SHVERA

Washington, DC -- The Federal Communications Commission today adopted a Report and Order that continues the implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA). The Order enables satellite carriers to offer FCC-determined "significantly viewed" signals of out-of-market broadcast stations to subscribers subject to certain constraints set forth in SHVERA. The Order includes an updated list of stations currently deemed significantly viewed.

The SHVERA, passed by Congress and enacted in December 2004, amends the Communications Act and the copyright statute. It directs the FCC to (1) publish and maintain a list of stations and communities eligible for significantly viewed status, and (2) commence a rulemaking proceeding to implement SHVERA. Significantly viewed signals have significant over-the-air non-cable viewing in a particular community. The Commission's rules relating to carriage of significantly viewed signals have been applied to the cable industry for more than 30 years. The SHVERA applies those rules to satellite providers.

To implement the SHVERA, the Commission took the following actions:

- <u>Updated Significantly Viewed List</u>: In the Notice of Proposed Rulemaking released February 2005, the Commission published a list of stations and the communities in which they are deemed significantly viewed. The List released with this Order and available on the FCC website has been slightly revised to reflect corrections received in the rulemaking.
- <u>"Significantly Viewed" Determinations:</u> The rules will operate for satellite carriage in much the same fashion as they have for cable carriage. This means parties must petition the Commission when seeking to either add a particular station to the Significantly Viewed List for a particular community, or to restrict carriage of a listed station through application of the Commission's network non-duplication or syndicated exclusivity rules.
- Required Showing: Under our rules in effect on April 15, 1976, network affiliates demonstrate significantly viewed status by showing they have at least three percent share of viewing hours in television homes in the community and a net weekly circulation share of at least 25 percent; independent stations must show at least two percent viewing hours and a net weekly circulation of at least five percent.

- <u>Subscriber Eligibility</u>: The *Order* concludes that the SHVERA requires that a subscriber must first be receiving a specific local market network station (if it exists in the market) from the satellite carrier in order to be eligible to receive a significantly viewed station affiliated with the same network.
- <u>Digital Significantly Viewed:</u> The SHVERA prevents satellite carriers from retransmitting the digital signal of a local market network station in a lesser format than the digital signal of the significantly viewed station affiliated with the same network. Thus, as a condition to offering a significantly viewed digital signal, satellite carriers must comply with the "equivalent bandwidth" and "entire bandwidth" requirements, which permit satellite carriage of a significantly viewed station only if the amount of bandwidth used to carry such station is equivalent to the amount of bandwidth used to carry the signal or signals of the affiliated local network station, or the entire amount of bandwidth used by the local station. These carriage requirements for local market digital signals apply only if the satellite carrier chooses to carry an out-of-market significantly viewed digital signal, and do not affect the "carry-one, carry-all" rules in general.
- <u>"Satellite Community" defined</u>: Stations are deemed significantly viewed in a particular community. Satellite carriers, like cable operators, use cable communities where they exist. If there is no cable system, satellite carriers may use existing communities (e.g., cities, towns, villages, etc.) to serve as satellite communities. In the absence of a distinct community entity, a satellite community may be defined by one or more adjacent five-digit zip code areas.
- <u>Carrier Responsibilities</u>: At least 60 days before retransmitting a significantly viewed signal into a local market, satellite carriers must notify all television stations in such market.
- **Enforcement:** The Commission must resolve complaints from local market stations concerning carriage of SV stations within 180 days.

The *Order* will be available online at www.fcc.gov.

Action by the Commission, November 3, 2005, by *Report and Order* (FCC 05-187). Chairman Martin, Commissioners Abernathy, Copps and Adelstein.

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